IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 72 OF 2006

Satyabhama Bhiku Kamble .. Petitioner
V/s.
The State of Maharashtra & Ors. .. Respondents

WITH

WRIT PETITION NO. 73 OF 2006

Dagadabai S. Halke .. Petitioner

V/s.

The State of Maharashtra & Ors. .. Respondents

(Not on Board)

WRIT PETITION NO. 119 OF 2006

Smt. Laxmibai Ganpat Marathe .. Petitioner
V/s.
The State of Maharashtra & Ors. .. Respondents

WITH

WRIT PETITION NO. 120 OF 2006

Anusaya Mahadev Shendge .. Petitioner
V/s.
The State of Maharashtra & Ors. .. Respondents

WITH

WRIT PETITION NO. 170 OF 2006

Hirabai J. Dhawle .. Petitioner
V/s.
The State of Maharashtra & Ors. .. Respondents

WITH

WRIT PETITION NO. 171 OF 2006

Laxmibai Mahadev Pawar .. Petitioner
V/s.
The State of Maharashtra & Ors. .. Respondents

WITH

WRIT PETITION NO. 206 OF 2006

Indubai Eknath Sonawane .. Petitioner
V/s.
The State of Maharashtra & Ors. .. Respondents

Ms. Nippa Singh i/b. Mahesh Menon & Co. for the petitioner.
Mr. R.M. Sawant, Government Pleader with Mr. A. Sayed, AGP for Respondent Nos. 1 & 2.

CORAM : F.I. REBELLO,
ANOOP V. MOHTA, JJ.

DATED : 14th March, 2006

P.C.

. Rule. Heard forthwith.

2. In all these matters the respondents have issued notice to the petitioners for vacation, under Section 90(1) of the MHADA Act, 1976. It appears that there is a tenant who has permitted the petitioners herein to occupy part of the premises which were tenanted to the said tenant. The tenant Kasabai Dattatray Shinde is not before us. We do not propose to go into the legal issue as to whether the petitioner's before us would be entitled to be re-inducted into the premises after repair/reconstruction. Presently we are concerned with purely the humanitarian aspect of the matter; considering that the petitioners will be displaced and

may find it difficult, considering their financial position to have a roof over their head. The petitioners, to be belonging to the section of the community which is poor.

3. We have heard learned Counsel for the MHADA. It is pointed out that insofar as accommodation is concerned, that they have power to allot a maximum of two rooms. MHADA has rooms admeasuring 120 sq.ft. to 200 sq.ft. They have transit accommodation also at Wadala which is closest to the present premises occupied by the petitioners. Respondents of Wadala have premises admeasuring 180 sq.ft. The learned counsel for the petitioners pointed out that considering the size of their families, they shall be given atleast 5 rooms of 180 sq.ft. and they will pay the entire outgoings. Without going into issues as to whether petitioners infact are entitled to five rooms or not, on the peculiar facts of the case and considering the humanitarian angle involved, we direct the Respondent No. 2 to make available to seven petitioners have five room of 180 sq.ft. subject to following directions.

i. Each of the petitioners to file undertaking before this Court that they will pay all the outgoings

for the premises allotted to them, within a period of two weeks from today.

ii. The undertaking must further contain a clause that because the premises are allotted, they cannot claim right for rehabilitation in the premises after repairs and or re-construction and that would be subject to any order that may obtain against the main tenant on any agreement between them.

iii. That on the building being reconstructed and within two months of the notice being given to them, they will hand over vacant possession of the premises allotted to the Respondent No.3.

iv. The undertaking will also contain a list of members of the petitioners' family who are residing with the petitioners presently. Only such members will be allowed to reside in the premises to be allotted. This order will also be binding on said persons who are residing with the petitioners.

v. The undertaking must also contain provision that they will not sublet or induct any other person in the premises which have been given to them in terms of order of this Court.

vi. The petitioners will pay the additional outgoings within four weeks from today and thereafter pay monthly outgoing to respondent No. 2.

vii. The petitioner will work out the arrangement under which they will share the premises and occupy after the monsoon.

4. It is made clear that we have not decided any question of law.

5. Rule made absolute accordingly with no order as to costs.

[F.I. REBELLO,J.]

[ANOOP V. MOHTA, J.]